

1 The Hon. Benjamin H. Settle  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

HERMINIO BARRAGAN MENDOZA,

Defendant.

NO. CR08-5125BHS

PRELIMINARY ORDER  
OF FORFEITURE

Pursuant to Rule 32.2, Federal Rules of Criminal Procedure, and based upon the guilty plea of Herminio Barragan Mendoza to Conspiracy to Distribute Methamphetamine, as charged in Count 1 of the Superseding Indictment, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A), and 846, and upon the plea agreement filed in this matter between Herminio Barragan Mendoza and the United States, in which the defendant agreed to the forfeiture of the asset listed below, it is hereby

ORDERED, ADJUDGED and DECREED that pursuant to Title 21, United States Code, Section 853, Herminio Barragan Mendoza's interest in the following property is hereby forfeited to the United States of America:

(a) Real property commonly known as 101 358th Street E., Roy, Washington 98580, Pierce County parcel number 0317281025, owned by Herminio M. Barragan, and Samantha Rose Mason, as Joint Tenants with Right of Survivorship, and more particularly described as follows:

TRACT 24, PIERCE COUNTY LARGE LOT DIVISION NO. 2408, FILED FOR RECORD NOVEMBER 20, 1978 IN VOLUME 25 OF SURVEYS, PAGE 8,

1 BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 28,  
2 TOWNSHIP 19 NORTH, RANGE 3 EAST OF THE W.M., IN PIERCE  
3 COUNTY, WASHINGTON.

4 IT IS FURTHER ORDERED that the United States Marshals Service shall seize  
5 the above-described property, and maintain such seized property in its custody and control  
6 until further order of this Court, or until this Order becomes final pursuant to Federal Rule  
7 of Criminal Procedure 32.2(c)(2).

8 IT IS FURTHER ORDERED that pursuant to Title 21, United States Code, Section  
9 853(n), the United States shall publish notice of the Preliminary Order of Forfeiture and of  
10 the intent of the United States to dispose of the property in accordance with law. The  
11 notice shall be posted on an official government website and run for at least thirty (30)  
12 days. The notice shall state that any person, other than the defendant, having or claiming a  
13 legal interest in the above-described property must file a petition with the Court within  
14 sixty (60) days of the first day of publication of notice on an official internet government  
15 forfeiture website, currently [www.forfeiture.gov](http://www.forfeiture.gov), or within thirty-five (35) days of receipt  
of actual notice, whichever is earlier.

16 The notice shall advise such interested persons that: 1) the petition shall be for a  
17 hearing to adjudicate the validity of the petitioner's alleged interest in the above-described  
18 property; 2) the petition shall be signed by the petitioner under penalty of perjury; and 3)  
19 the petition shall set forth the nature and extent of the petitioner's right, title or interest in  
20 the forfeited property. The petition shall also set forth any additional facts supporting the  
21 petitioner's claim and the relief sought.

22 The United States shall also, to the extent possible, provide direct written notice as  
23 a substitute for published notice to any person known to have an alleged interest in the  
24 above-described property that is the subject of this Preliminary Order of Forfeiture. Upon  
25 adjudication of any third-party claims, this Court will enter a Final Order of  
26 Forfeiture pursuant to Title 21, United States Code, Section 853(n), in which all such  
27 claims will be addressed.

28 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3), Federal Rules of

1 Criminal Procedure, this Preliminary Order of Forfeiture shall become final as to the  
2 defendant at the time of sentencing and shall be made part of the sentence and included in  
3 the judgment. Based upon the Plea Agreement and the guilty pleas entered by the  
4 defendant herein, the Court finds that the defendant had an interest in the forfeited  
5 property. If no third party files a timely claim, this Order shall become the Final Order of  
6 Forfeiture as provided by Rule 32.2(c)(2), Federal Rules of Criminal Procedure.

7 IT IS FURTHER ORDERED that after the disposition of any motion filed under  
8 Rule 32.2(c)(1)(A), Federal Rules of Criminal Procedure and before a hearing on any third  
9 party petition, discovery may be conducted in accordance with the Federal Rules of Civil  
10 Procedure upon a showing that such discovery is necessary or desirable to resolve factual  
11 issues.

12 IT IS FURTHER ORDERED that the United States shall have clear title to the  
13 above-described property following the Court's disposition of all third party interests, or,  
14 if none, following the expiration of the period provided in Title 21, United States Code,  
15 Section 853(n) for the filing of third party petitions.

16 IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this  
17 Order, and to amend it as necessary, pursuant to Rule 32.2(e), Federal Rules of Criminal  
18 Procedure.

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1 The Clerk of the Court is directed to send a copy of this Preliminary Order of  
2 Forfeiture to all counsel of record and three (3) "raised sealed" certified copies to the  
3 United States Marshals Service in Seattle, Washington.

4 DATED this 27<sup>th</sup> day of July, 2009.

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BENJAMIN H. SETTLE  
United States District Judge

Presented by:

s/ Douglas J. Hill

DOUGLAS JAMES HILL  
Assistant United States Attorney

s/ Matthew H. Thomas

MATTHEW H. THOMAS  
Assistant United States Attorney

s/ Darwin P. Roberts

DARWIN P. ROBERTS  
Assistant United States Attorney

s/ Ye-Ting Woo

YE-TING WOO  
Assistant United States Attorney

s/ Phil I. Brennan

PHIL I. BRENNAN  
Attorney for Defendant

s/ Herminio Barragan Mendoza

HERMINIO BARRAGAN MENDOZA  
Defendant